



INTERIOR BOARD OF INDIAN APPEALS

Paiute Indian Tribe of Utah v. Western Regional Director,
Bureau of Indian Affairs

40 IBIA 141 (11/04/2004)

Related Board case:
38 IBIA 15



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
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PAIUTE INDIAN TRIBE OF UTAH,	:	Order Dismissing Appeal
Appellant,	:	
	:	
v.	:	Docket No. IBIA 04-141-A
	:	
WESTERN REGIONAL DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee.	:	November 4, 2004

The Paiute Indian Tribe of Utah (Tribe) sought review of the alleged failure of the Western Regional Director, Bureau of Indian Affairs (Regional Director; BIA), to respond to a request for action or decision made pursuant to 25 C.F.R. § 2.8, on a fee-to-trust acquisition application regarding a 120-acre parcel of land located near Kanosh, Utah. The Tribe alleged that the Regional Director failed to respond to its letter to him dated July 16, 2004, in which the Tribe asked for a decision on the fee-to-trust acquisition application. The application had been submitted on behalf of the Kanosh Band of Paiute Indians (Band) on October 15, 2001. A previous appeal based on the inaction of the Regional Director was dismissed. Paiute Indian Tribe of Utah v. Western Regional Director, 38 IBIA 15 (2002).

On August 16, 2004, the Board issued an order requiring the Regional Director to provide the Board with a status report on his consideration of the pending request, including a timetable for taking appropriate action. On September 9, 2004, the Regional Director provided a status report indicating that he expected to have a decision completed on or before October 15, 2004.

On October 25, 2004, the Regional Director submitted a Decision Analysis Memorandum (Memorandum) dated October 15, 2004, pertaining to the 120-acre parcel of land proposed for trust acquisition. In the Memorandum, the Acting Regional Director concluded, after analysis, "that the transfer of the 120 acres to trust status would be in the best interest of the Band." The Memorandum granted preliminary approval of the trust acquisition, subject to completion of a title examination by the Office of the Solicitor, exhaustion of administrative remedies, and compliance with regulatory requirements for publishing notice of a final determination and for a 30-day waiting period prior to the acquisition.

The Tribe's appeal to the Board requested review of the failure of the Regional Director "to take action as required by 25 C.F.R. § 151.12(a) and 25 C.F.R. § 2.8(b)," with respect to the 120-acre parcel. The Regional Director has now taken that action by issuing a decision. The additional steps to be taken by the Regional Director, under 25 C.F.R. § 151.12(b), to complete the acquisition, are not yet ripe, nor were they the subject of the Tribe's appeal. Because the Regional Director has now made a decision under 25 C.F.R. § 151.12(a), the Tribe's appeal from inaction by the Regional Director is moot.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, this appeal is dismissed.

// original signed
Colette J. Winston
Administrative Judge

// original signed
Steven K. Linscheid
Chief Administrative Judge